

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noah Kim	Team: Squad #9	CCRB Case #: 202004015	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/06/2020 7:45 PM	Location of Incident: Grand Army Plaza	Precinct: 78	18 Mo. SOL 12/6/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 06/07/2020 9:46 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 06/07/2020 9:46 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Wihlborg	03360	961449	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathan Nika	04579	944851	071 PCT
2. POM Michael Caputo	03885	955785	071 PCT
3. POM Louis Soland	01678	934195	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Wihlborg	Force: Police Officer Robert Wihlborg used physical force against an individual.	[REDACTED]

Case Summary

On June 7, 2020, § 87(2)(b) filed this complaint with the CCRB via on-line website [BR01].

On June 6, 2020, at approximately 7:45 p.m., § 87(2)(b) was attending a Black Lives Matter protest at Grand Army Plaza in Brooklyn. Approximately 10 officers were standing in a circle to create distance between officers arresting an unidentified male and a group of protestors. The officers made their circle smaller and moved closer to the male being arrested. An unidentified female followed the officers. Police Officer Robert Wihlborg of PSA 2 pushed the unidentified female away from the circle of officers (**Allegation A: Force**; § 87(2)(g)).

§ 87(2)(b) provided cell phone footage of this incident [BR02]. A search for body-worn camera (BWC) footage for this incident yielded negative results. The search was conducted for June 6, 2020 from 6:00 p.m. to 9:30 p.m. The search included the 71st, 72nd, and 76th Precinct, as well as Strategic Response Groups (SRG) 1-5, Disorder Control Unit (DCU), Critical Response Command (CRC), and Narcotics [BR03]. The nature of the incident did not require the use of BWC as per the Patrol Guide.

Findings and Recommendations

Allegation (A) Force: Police Officer Robert Wihlborg used physical force against an individual.

§ 87(2)(b) testified that on June 6, 2020, he was at a Black Lives Matter protest at Grand Army Plaza in Brooklyn. There were six police officers arresting an unidentified male. A group of 10 other police officers stood in a line in front of the officers affecting the arrest. A large group of protestors chanted at the officers. The 10 officers then retreated to form a small circle around the officers making the arrest. An unidentified female followed the officers as they formed the circle. She asked if the unidentified male needed legal counsel. An officer, who the investigation determined to be PO Robert Wihlborg, pushed the unidentified female with both of his hands, and made contact with her upper arm and stomach. The unidentified female stumbled a couple of steps backward but did not fall. § 87(2)(b) was approximately 10 feet away from this incident. § 87(2)(b) did not have any relationship association with the unidentified female [BR04].

PO Robert Wihlborg testified that on June 6, 2020, at a Black Lives Matter protest at Grand Army Plaza in Brooklyn, he was instructed by his supervisors to provide crowd control while officers in an intelligence unit assigned to an unknown precinct affected an arrest of an unidentified individual. PO Wihlborg and an unknown number of officers stood in a line with their backs to the officers to ensure that protestors did not disrupt the arrest. An unidentified female attempted to walk through the line of officers toward the officers affecting the arrest. PO Wihlborg informed her that she could not interfere with an arrest. PO Wihlborg held out his arm and used his hand to block the unidentified female from moving past the line of officers. PO Wihlborg's hand made physical contact with the unidentified female's shoulder. The unidentified female responded by yelling something at PO Wihlborg that he did not recall. The unidentified female did not attempt to cross the line of officers again. Cell phone footage taken by § 87(2)(b) was played for PO Wihlborg at 19:00 minutes. PO Wihlborg identified himself on screen and identified the female he had interacted with in this incident as the one who was in the footage. PO Wihlborg did not have his body-worn camera turned on for this incident. PO Wihlborg stated that there was no incident to record at the time [BR05].

PO Michael Caputo, of the 71st Precinct, testified that on June 6, 2020, at a Black Lives Matter protest at Grand Army Plaza in Brooklyn, he was instructed by a supervisor to stand in a semi-circle of 6-8 officers between officers who were making the arrest of an unidentified individual and the protestors. PO Caputo and the other officers told the protestors that they could not walk past the line of officers. The protestors yelled at the officers but did not attempt to walk past them. PO Caputo did not recall whether any officers made any physical contact with any of the

protestors. Cell phone footage taken by § 87(2)(b) was played for PO Caputo at 17:30 minutes. PO Caputo identified himself in the footage. PO Caputo did not recognize the unidentified female in the video and did not recall interacting with her. PO Caputo did not recognize PO Wihlborg, who was standing directly to his left. PO Caputo stated that the cell phone footage did not aid in his recollection of any portion of the incident. PO Caputo did not have his body-worn camera turned on for this incident. PO Caputo stated there was no incident to record at the time [BR06].

Cell phone footage taken by § 87(2)(b) captured the incident on June 6, 2020, at Grand Army Plaza in Brooklyn. The footage opens with a large group of officers standing in a circle with their back to a smaller group of officers who are holding an unidentified male down on a cement block. At 01:36 minutes, PO Wihlborg stretches out his right hand to block an unidentified female from walking past him toward the officers holding down the unidentified male. PO Wihlborg's hand makes light contact with the unidentified female's left shoulder. The unidentified female takes three steps backwards. The unidentified female tells PO Wihlborg not to touch her. PO Caputo, who is standing directly to the right of PO Wihlborg tells the unidentified female "Don't come behind us okay?" [BR02].

Patrol Guide procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of service or when it is reasonable to place a person in custody or prevent an escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances [BR07].

The unidentified female attempted to walk past PO Wihlborg and the officers who were instructed to keep protestors away from interfering with the officers affecting an arrest. PO Wihlborg § 87(2)(g) extending his hand to block the unidentified female from walking past him. The unidentified female took three steps backward as a result of this action and did not attempt to move past PO Wihlborg or any other officers again.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint § 87(2)(b) has been party to. § 87(2)(b) made one allegation during this complaint [BR08].
- PO Daniel Mendez has been a member of service for four years. During his tenure he has been the subject of three allegations over two complaints. None of these allegations were substantiated.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for meditation as it was related to a 2020 police brutality protest.
- According to the New York City Office of the Comptroller, § 87(2)(b) has not filed a Notice of Claim regarding this incident as of August 26, 2020 [BR09].
- § 87(2)(b)

Squad No.: 8

Investigator: Noah Kim
Signature

Investigator Kim
Print Title & Name

9/4/2020
Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 9/8/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date